

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, FEBRUARY 5, 2014,  
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Gilbert called the Planning Commission meeting to order at 7:30 p.m. Ms. Kristiansson called the roll.

Present: Commissioners Judith Hasko, Nate McKitterick and Alexandra Von Feldt; Vice Chair Nicholas Targ; Chair Denise Gilbert

Absent: None

Staff Present: Tom Vlastic, Town Planner  
Karen Kristiansson, Deputy Town Planner  
Leigh Prince, Town Attorney  
Jeff Aalfs, Vice Mayor and Council Liaison

ORAL COMMUNICATIONS

None.

REGULAR AGENDA

- (1) Public Hearing: Proposed Amendment to Conditional Use Permit (CUP) X7D-161, AT&T Mobility, 4115 Alpine Road [7:31 p.m.]

Commissioner Von Feldt recused herself and left the dais because she lives within 500 feet of the subject property. Vice Chair Targ explained that his law firm represents AT&T in high-speed internet cases in San Francisco but he is not personally involved, and asked whether he should recuse himself as well. Ms. Prince advised that it was unnecessary to recuse himself since this did not appear to be a direct conflict of interest.

Mr. Vlastic explained that the January 29, 2014 staff report provides background, including discussion of preliminary reviews by the Planning Commission and the ASCC, efforts to hold a joint site meeting with a concerned neighbor at 50 Bear Gulch Drive, modifications to the plans in response to ASCC input, and the ASCC's evaluations of the changes. The changes include removing proposed fencing around ground-based equipment and relocating ground-based cabinetry. Mr. Vlastic said the Bear Gulch neighbor is out of town and unable to attend tonight's meeting.

Mr. Vlastic advised that at this point, the Town's control is basically limited to aesthetic considerations and management of site conditions. The conditions of approval include those that remain relevant from the 2010 approval, he said, plus others that focus specifically on the revised plans, the manner in which work is to be done, maintenance, work scheduling, encroachment permit requirements, additional landscaping requirements and ASCC review of plantings and site conditions within 18 months of the building permit sign-off.

Chair Gilbert opened the public hearing. No one came forward.

Commissioner McKitterick asked about regulating emergency work at the site. Mr. Vlastic explained that per the conditions, before a permit is issued, AT&T will need to articulate emergency procedures to be followed in all future circumstances. If they can't follow those procedures for some reason, the Town wants sufficient notice to be able to share the information with neighbors. AT&T also is to provide a detailed construction schedule of the proposed changes so the Town can notify neighbors.

Commissioners discussed the project and agreed that the modifications were responsive to the concerns expressed earlier. In addition, the project appears to minimize aesthetic impacts as much as possible and may improve the aesthetics overall. The conditions of approval will also begin to address the neighbor's concerns.

Vice Chair Targ moved to find the proposed CUP amendment categorically exempt under the provisions of the CEQA Guidelines pursuant to Sections 15301 (existing facilities) and 15305 (minor alterations to land-use limitations). Seconded by Commissioner McKitterick, the motion carried 4-0.

Commissioner McKitterick moved to make the findings required by Section 18.72.130 of the Municipal Code and set forth in the January 29, 2014 staff report, and approve the proposed CUP amendment application as set forth in Resolution No. 2014-1. Seconded by Commissioner Hasko, the motion carried 3-0-1 (Targ abstained).

Commissioner Von Feldt returned to the dais.

(2) Request for Waiver from Town Utility Undergrounding requirements, 151 Cervantes Road, Forrest Linebarger [7:48 p.m.]

As indicated in her January 30, 2014 staff report, Ms. Kristiansson said Town Ordinance 1990-256 requires that whenever an electric service box is moved, the overhead utility lines must be undergrounded to the nearest utility pole. Because it would require undergrounding nearly 170 feet to the nearest pole, the estimated cost to comply at the Cervantes Road residence would be more than \$66,000. As Ms. Kristiansson noted, that's substantially higher than the \$37,000 cost of Mr. Linebarger's project, which includes remodeling the kitchen and enclosing the carport at 151 Cervantes Road. The existing service panel, currently located within the carport, must to be moved outside the newly-enclosed garage for emergency access. Mr. Linebarger also said mature trees would likely suffer root damage with undergrounding work. The larger trees are pines, he said, and there a number of smaller oaks, which he believes are blue oaks. Ms. Kristiansson said the existing overhead lines are not visible from neighboring properties, and trees along the driveway and Cervantes Road screen the views of the lines from the right-of-way. Taking the cost and view considerations into account, she said it seems reasonable to grant the exception requested.

Ms. Kristiansson then noted that Municipal Code Section 18.36.010.B.9 allows the Planning Commission to waive undergrounding requirements for individual properties if it finds the installation infeasible or impracticable, but those terms aren't defined. However, a 1974 policy statement says that the decision would be based on "an evaluation of the benefits to be derived by requiring . . . against the burdens being imposed." She also summarized the history of exceptions to the Town's undergrounding requirements and mentioned that staff started developing a policy to provide more guidance as to when exceptions should be granted, but a draft policy was never brought forward to the Planning Commission. Ms. Kristiansson said the Commission might want to consider whether it is appropriate to reconsider developing that policy.

Commissioner Targ said that in his opinion the words "feasible and practicable" are generally used to mean whether something was physically possible in an engineering sense, but he is aware of some legal decisions in which these words are used to include a limited cost-benefit analysis. Commissioners agreed that the wording should be clarified.

In response to a Chair Gilbert, Ms. Kristiansson said that under normal circumstances, the need to consider the relocation of the electric panel would have been flagged before a permit was issued, but in this instance the electric panel was not noted on the plan and remodeling was already underway when Deputy Building Official Gary Fitzer noticed during a routine inspection that the electrical main service was inside the carport and would have to be moved and raised to provide emergency access. Mr. Linebarger took full responsibility for failure to realize the electric panel would be an issue.

Commissioner Targ asked about the trees that would be impacted. Ms. Kristiansson said that there were some pines or firs and some oak trees that could be affected by a trench from the garage to the pole. She shared some pictures of the trees with the Planning Commission. Commissioner Von Feldt commented that undergrounding the line would likely compromise some live oak trees, including some that could be close to significant size.

After some discussion, Commissioners agreed that the undergrounding could have the potential to affect some oak trees and would be infeasible based on a limited comparison of costs and benefits.

Commissioner Hasko moved to grant the exception to Town Ordinance 1990-256 in respect to undergrounding utility lines in connection with the project at 151 Cervantes Road. Seconded by Vice Chair Targ, the motion carried 5-0.

Commissioners discussed whether the Town should craft a policy or ordinance amendment for guidance in the future. Commissioner McKitterick said that he would want more guidance from the Town Council as to what should be considered. Ms. Kristiansson advised that it could be helpful if staff could grant exceptions under certain clear-cut circumstances, with other requests to be considered by the Planning Commission. She noted that whether the guidance is provided by a policy or by an ordinance amendment, the Town Council would be involved for input and signoff. The Commission agreed that this should be a future work item for the planning program.

(3) Follow-up Study Session: Portola Road Corridor Plan [8:13 p.m.]

Ms. Kristiansson provided a brief summary of her January 30, 2014 staff report on the discussion of four particular issues in the draft Corridor Plan at the joint meeting of the Planning Commission and Town Council on January 22, 2014, and possibilities as to how to address those in the revised plan. Commissioners discussed each item in turn.

Section 6404, Section 1: "natural views" – Commissioners were satisfied with striking the word "natural," so it now reads: *To protect or reestablish open views within and from the corridor, especially to the western hillsides, wherever possible while preserving valuable habitat and variety of experience for all users.*

Section 6406, Standard 4: thinning vegetation and opening views – Commissioners discussed whether the word "balance" implies equality, and there was consensus that opening views in the corridor is the primary objective envisioned both by the Task Force and Town Council. There also was consensus that retention of vegetation for trail users should be a secondary consideration, with attention to providing a varied experience for trail users, although Commissioner Hasko expressed concern about implying that trail-user considerations are secondary. It also was pointed out that "preserving" carries connotations beyond what seemed intended.

The commission agreed to re-word this standard as follows: *The town should thin or remove vegetation in the right-of-way in order to open views as a primary goal, retaining enough vegetation to provide a varied experience for trail users. These evaluations should be made on a case-by-case basis using input from the various committees and other community interests in town.*

Section 6406, Standard 5 – Although it wasn't on the discussion list from January 22, 2014 joint meeting with the Town Council, the Commission also agreed, after a brief discussion, to change this standard to read: *The town should encourage property owners on the western side of the road to thin or remove vegetation on their properties when the vegetation obscures views of the western hillsides, agricultural uses ~~existing orchards~~ and open fields.*

Section 6406, Standards 6 and 7: undergrounding utility lines – The Planning Commission agreed to use the first option which was presented for the draft Corridor Plan:

*Standard 6: Undergrounding utility lines along the corridor is desirable and should be considered.*

*Standard 7: The town should require utility companies and property owners to screen utility boxes and related equipment or develop other measures to decrease their aesthetic impacts.*

Section 6413, open and undeveloped view from the corridor – Following the January 22, 2014 meeting, staff added "consistent with the other provisions of this general plan" to Section 6413. After considerable discussion about views, viewsheds, lands, protection and development, Commissioners agreed to strike the rest of that sentence. They agreed to the following wording:

*The lands on the west side of the corridor in Segment 2 are dominated by larger parcels, several of which extend from the Valley floor to near the top of the western hillsides, including the Windy Hill Open Space Preserve lands of the Midpeninsula Regional Open Space District. These*

*parcels contain some of the most ~~significant~~ magnificent viewsheds in the town and also include the areas shown on the general plan diagram as “Meadow Preserve,” “Orchard Preserve” and “Stable Preserve.” Efforts should be made to work with the land owners to preserve and protect these lands consistent with the other provisions of this general plan ~~so that the view from the corridor remains largely open and undeveloped.~~ Where appropriate, the town should acquire land or other property rights, such as conservation or open space easements or designation under the Williamson Act.*

The Commission also asked staff to consider possible changes to this section given the context of the General Plan and the relationship to the Land Use Element in particular. Because the changes are expected to be minor, Chair Gilbert said they could be considered during the public hearing rather than having to come back to the Commission before that.

Public comments were requested.

Judith Murphy, Portola Green Circle, who represented the Conservation Committee on the Portola Road Corridor Task Force, commented on Section 6406, Standard 4. Among other things, she said Task Force members wanted to be certain that the trail experience was considered, but their strong consensus was that the primary goal would be opening the view. She was disappointed that “habitat” was lost in the re-wording but otherwise liked the changes. In terms of Section 6413, Ms. Murphy reiterated that the view came up over and over again in the Task Force’s discussions, and although it might be redundant, she said she would prefer to restore the phrase the Commission decided to strike (“so that the view from the corridor remains largely open and undeveloped”), and in fact said the redundancy was desirable in this instance.

On 6413, Craig Hughes, Town Council Liaison, said the question is what we’re trying to protect – the view or the viewshed. He noted that the view is the area closer to the road, while the viewshed is everything that is seen. Since other parts of the general plan protect the viewshed, he suggested that the Portola Road Corridor Plan should focus on protecting the view.

Chair Gilbert said the next step would be for staff to put all of this together and bring it back to the Planning Commission for a public hearing.

(4) Continued Study Session: Housing Element Update Program [9:00 p.m.]

Chair Gilbert noted three specific topics listed in the January 30, 2014 staff report to cover during this study session:

1. Updated analysis of the Town’s Regional Housing Needs Assessment (RHNA), given the 21 Elements study of the affordability of second units and current second-unit production rates
2. A discussion of Affiliated Housing, including reports on conversations last year between staff and representatives of The Sequoias and the Priory, and the Ad Hoc Affordable Housing Committee’s recommendation for expansion of that program, to possibly allowing Affiliated Housing on commercial and large agricultural properties as well as institutional properties
3. Follow-up information on the State Density Bonus Law (SDBL)

Ms. Kristiansson provided an overview of the key points of the January 30 staff report.

RHNA Update: Although the state hasn’t yet approved the 21 Elements study, Ms. Kristiansson said the staff report includes numbers based on the more conservative affordability proportions. On that basis, if the Town increases second-unit production to six units per year on average, second units would provide all but three low-income and five moderate-income units. As a result, she said it appears likely that the Town could meet its RHNA requirements through a combination of the second-units program and affiliated housing, which would provide time to explore other options without being under time pressure.

In response to questions, Ms. Kristiansson said that:

- Typical market-rate development would provide most above-moderate income units.
- Although second-unit production rates vary from year to year, the numbers have been increasing over the past three years
- Because Housing Element law requires *planning* for the required number of units and making it possible, the state does not penalize the Town for fact that the Priory has not yet actually built the units that the Town approved as part the Priory's master plan
- She chose "Type 2" on the table in the staff report as the more conservative figure on which to base Portola Valley's numbers, because adding extremely low, very low and low comes to 85% for Type 1, whereas the Type 2 comparables add up to 70%
- If we ask, the state is likely to allow the Town to count extremely low income units toward very low-income levels (or higher) instead

Affiliated Housing: Noting that this program had been called the Multifamily Housing Program in the 2009 Housing Element, Ms. Kristiansson reiterated that the Priory already has approval for 11 homes, including some that would be affordable to low or moderate income households. The Sequoias has expressed interest in providing employee housing and is exploring its options, she said, but site constraints pose a challenge. At this time, Stanford has no plans for the Stanford Wedge.

In terms of the Ad Hoc Affordable Housing Committee's idea to expand the Affiliated Housing program, Ms. Kristiansson said state law already requires allowing employee housing on larger agricultural properties, but at this time, it isn't currently allowed in commercial and office parts of town. In response to a question about the potential number of such properties in Town, Mr. Vlasic said there may be eight to 10 in the Nathhorst Triangle area and four or five in the Village Square area.

On the plus side, expanding the program in that direction could provide affordable housing for people who work in Town, help local employers and reduce traffic, Ms. Kristiansson said, but it might prompt revisiting whether additional floor area is needed and whether neighbors would be concerned about the impacts of mixed uses on the neighborhood. She said any changes in floor area and density would warrant careful examination, and provisions would likely be needed to ensure ongoing management of the units.

In response to questions, Ms. Kristiansson said that:

- The number of units on a property could be limited to whatever the Town determines; it could be a single unit.
- At this time, a commercial or office use could not include employee housing without a General Plan amendment and a change in the Zoning Ordinance plus the analysis about mixed uses, floor area and density. What the Commission should consider is whether the regulatory changes necessary should be enacted to enable a property owner to seek a CUP

Commissioners expressed some concerns about the idea but agreed that for now the idea could be included in the housing element as an item to be explored. Further discussion of the idea could occur when the Commission reviews the draft housing element language.

Chair Gilbert invited public comment.

Bud Eisberg, Wyndham Drive, noted that some Village Square units already have lofts in the back with apartment-like entrances that could readily be converted into dwelling units without adding any floor area. He also asked which properties in Town have agricultural zoning that would qualify them to add employee housing, and

inquired whether the Woods/Hawthornes Estate on the Midpeninsula Regional Open Space District property might have potential for affiliated housing.

Ms. Murphy said she visited the property with the Nature and Science Committee, and the MROSD representative said the organization is considering using the more modern house on the property for rangers. Depending on whether this idea this plays out, this house might count in the RHNA numbers.

Onnolee Trapp, The Sequoias, who served on the Ad Hoc Affordable Housing Committee, said creating affiliated housing on commercial properties might also prove economically beneficial to property owners as well as their employees.

Craig Hughes, Town Council Liaison, suggested it would be a good idea to include mention of the Town intention to explore this option in the Housing Element.

Density Bonus: Ms. Kristiansson, noting that the Town Attorney prepared a report that was attached to the January 30, 2014 staff report, said Ms. Prince was prepared to answer questions. Ms. Kristiansson identified two key points:

- The Town must comply with SDBL whether or not an implementing ordinance is adopted; an implementing ordinance could, however, allow the Town to qualify for a streamlined Housing Element review
- Only development projects with at least five units would qualify for a density bonus, and there are only four properties in town that could accommodate five or more units under current zoning.

Ms. Kristiansson said that she and the Town Attorney believe there is enough time to adopt such an ordinance before the Housing Element must be submitted to the state.

Vice Chair Targ asked Ms. Prince to clarify some terminology – what is meant by “affordable,” and particularly by “low income” and “very low income?” Ms. Prince said these terms are defined in state law, and the term “affordable” connotes housing in a range when household income is below the median income. Area median incomes for households of various sizes are determined county by county, as are the income limits. In San Mateo County, a “moderate income” family of four would have a household income no greater than \$123,600.

Ms. Prince said the Health and Safety Code, which is referenced in the California Government Code Section 69515 that was attached to her report, defines income levels for moderate, low, very low income, with moderate at 80% of area median income. She said the Health and Safety Code also defines the maximum rents that can be charged (e.g., 30% of 60% of income for low income, and 30% of 50% for very low). An implementing ordinance could not change that, she said, nor could it change the number of incentives or concessions, which also is determined by SDBL.

Ms. Prince indicated that SDBL defines an incentive as any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that result in identifiable, financially sufficient, and actual cost reductions
2. Approval of mixed-use zoning in conjunction with a housing project
3. Other regulatory incentives proposed by the applicant that result in identifiable, financially sufficient, and actual cost reductions; an incentive may be, but need not be, the provision of a direct financial incentive such as the waiver of fees

Ms. Prince said that last month Palo Alto adopted a so-called “menu” of options to encourage developers to choose a setback reduction rather than a height increase, for example, or seek an increase in residential floor-area ratio but not in commercial FAR. Palo Alto is trying to encourage the use of certain incentives by pre-

approving those. To receive other incentives, developers would need to provide pro formas and other financial information as part of the application. The thought is that this will discourage developers from applying for other incentives.

Given the fact that the Town is already obliged to follow state law; several Commissioners suggested that it makes sense to craft the implementing ordinance in order to take advantage of the opportunity to streamline. Even if Commissioners personally understand what the ordinance could and could not do, their consensus was that in the interest of openness and transparency with the public, a further study session should be devoted to the Town's density bonus ordinance. Mr. Prince said she could draft an ordinance and bring it back to the Planning Commission for discussion and public comment as part of the Planning Commission's review.

Bud Eisberg, Wyndham Drive, said while the implementing ordinance would be good for purposes of streamlining the Housing Element review, it would be important to know how such an ordinance could affect, for instance, a property such as 900 Portola Road. He expressed concern that the Town could lose control through such an ordinance.

Louis Ebner, Wyndham Drive, said he thinks the problem the public really wants solved is to understand where all of this is heading. Historically, complex developments are effectively negotiated behind closed doors, and by the time the public gets a clear notion of what's going on, the process is already well underway, without any knowledge either of what decisions were being made along the way or what options were considered and discarded. He said it's important to know what is controllable and what is not; the public is not resistant to reality but to ignorance.

Chair Gilbert noted that there is both public and Commission support for drafting an ordinance and for the Commission to hear a presentation on state density bonus law to be sure that there is clear understanding of the law and the implications of an implementing ordinance.

#### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [9: 50 p.m.]

Chair Gilbert excused herself and Vice Chair Targ took the gavel.

Ms. Kristiansson said that she is meeting with the 21 Elements study consultant to explain the in-house work staff has done on the housing element update and to determine what assistance the consultant can provide to help complete the effort.

#### ADJOURNMENT [9:53 p.m.]

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Denise Gilbert, Chair

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Karen Kristiansson, Deputy Town Planner